

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DAVID NELSON,

Plaintiff,

v.

JANSSEN PHARMACEUTICALS, *et al.*

Defendants.

ORDER

Case No. 14-cv-707-jdp

This case was closed after the court did not receive a certified copy of plaintiff's six-month trust fund account statement so that a determination could be made as to whether plaintiff qualified for indigent status, and if so, assess an initial partial filing fee. Now, plaintiff has submitted the requested certified account statement. After considering plaintiff's six-month trust fund account statement, the court concludes that plaintiff qualifies for indigent status.

Even when a prisoner litigant qualifies for indigent status, he must pay a portion of the fee returned by the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, a prisoner litigant must prepay 20% of the greater of the average monthly balance or the average monthly deposits made to his prison account in the six-month period immediately preceding the filing of the complaint.

In this case, 20% of the average monthly balance is \$1.93, and 20% of the average monthly deposits made to his account is \$1.96. Because the greater of the two amounts is 20% of the average monthly deposits, or \$1.96, that is the amount plaintiff will be assessed as an initial partial payment of the filing fee. For this case to proceed, plaintiff must submit this amount on or before January 30, 2015.

If plaintiff does not have the money to make the initial partial payment in his regular account, plaintiff will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that plaintiff is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount plaintiff must pay at this time is the \$1.96 initial partial payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes. Plaintiff should show a copy of this order to prison officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that plaintiff David Nelson may have until January 30, 2015 to submit a check or money order made payable to the clerk of court in the amount of \$1.96 as the initial partial payment assessed in this case. If plaintiff complies with this deadline, this case will be reopened and screened on the merits pursuant to 28 U.S.C. § 1915(e)(2). Otherwise, this case will remain closed.

Entered this 7th day of January, 2015.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge